

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

RANDY COOPER,

Petitioner,

v.

CIVIL ACTION NO. 3:10-01119

WILLIAM FOX, WARDEN  
ST. MARY'S CORRECTIONAL  
CENTER,

Respondent.

**ORDER**

Currently pending before this Court is a *pro se* Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254. In his Petition, Randy Cooper challenges his 1996 guilty plea and conviction for first degree murder. This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that this Court dismiss this action because it is a successive petition, Petitioner did not get authorization from the Fourth Circuit Court of Appeals to file the petition under 28 U.S.C. § 2244(b)(3) and, in any event, his petition is untimely under 28 U.S.C. § 2244(d). Petitioner objects to the Magistrate Judge's findings and recommendations.

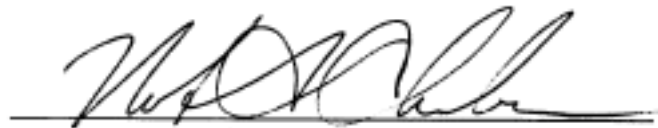
Upon de novo review, the Court agrees with the findings of the Magistrate Judge and finds nothing in Petitioner's objections which would allow him to file a successive petition or that would render his petition timely filed. Thus, finding no merit to the objections, the Court accepts

and incorporates herein the findings and recommendations of the Magistrate Judge, **DENIES** the Petition for a Writ of Habeas Corpus [ECF No. 1], **GRANTS** Respondent's Motion to Dismiss [ECF No. 14], and **DISMISSES** this action **WITH PREJUDICE** from the docket of the Court.

The Court additionally has considered whether to grant a certificate of appealability. *See* 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." *Id.* at § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this Court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683-84 (4th Cir. 2001). The Court concludes that the governing standard is not satisfied in this instance. Accordingly, the Court **DENIES** a certificate of appealability.

The Court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge Eifert, counsel of record, and any unrepresented parties.

ENTER: February 1, 2012

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', is written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE